

REMARKS

The undersigned have become the attorneys of record for the prosecution of this application. The New Power of Attorney/Revocation of Prior Powers was filed with the Patent Office on January 14, 2002. Applicant kindly requests that the Examiner correct the attorney docket number to: **ACS-58267 (1700X)**.

Applicant has enclosed copies of the Notices Regarding Power of Attorney confirming the revocation of the prior Power of Attorney and new Power of Attorney as well as a copy of the acknowledgment of receipt by the PTO thereof. Applicant requests that the Examiner kindly update the mailing address of the attorney of record to Fulwider Patton Lee & Utecht, LLP, 6060 Center Drive, Tenth Floor, Los Angeles, CA 90045

Applicant gratefully acknowledges the telephonic interviews conducted with the Examiner on January 9 and February 5, 2003. Applicant has tried to address the issues raised by the Examiner with this response. Applicant requests reconsideration of the application in view of the preceding amendments and the following remarks. Claims 1 and 8 have been amended. Claims 1-25 are pending. Claims 1 and 8 are independent claims.

Support for the amendments to the claims is found in the specification. No new matter has been added in making the amendments herein.

35 U.S.C. §103 REJECTIONS

The Examiner rejected claims 1-10 and 13-25 under 35 U.S.C. § 103(a) as being unpatentable over Fariabi, U.S. Pat. No. 5,636,641, in view of Fagan et al., U.S. Patent No. 5,720,300. Applicant respectfully disagrees with Examiner's reading of Fariabi and traverses these rejections.

In the telephonic interview on January 9, 2003, the Examiner indicated that Fariabi discloses the limitation, recited in claims 1 and 8, that the "precipitation hardened material and superelastic material extend from the proximal section to the distal section of the composite elongate core." Specifically, the Examiner pointed to c. 4, line 67, to c. 5, line 5 and FIGS. 1 and 2 of Fariabi

as disclosing the limitation. The Examiner apparently interprets the phrase, at c. 4, line 67 of Fariabi, "removing the sheath" to indicate that the sheath 12 is not removed completely at the distal section 17 of the core member 11, but rather is gradually tapered down to the inner alloy member 13, thereby allowing the sheath to extend to the "distal section of the composite elongate core."

It is respectfully submitted that interpreting the above cited phrase in Fariabi requires consideration of the entire sentence in which it is contained. It is respectfully noted that the sentence in which the phrase is contained discloses forming the taper by "removing the sheath" to "expos[e] the NiTi alloy member" and, then, "[grinding] in a conventional manner." Fariabi at c. 4, line 67, to c. 5, line 5. It is respectfully asserted that the sentence does not disclose "removing the sheath by grinding in a conventional manner" as is required by the Examiner's apparent interpretation. It is further respectfully submitted that in order to "expose[es] the inner NiTi alloy member", the sheath 12 must be completely removed and, therefore, the only portion of the core member 11 which is left to be "ground" is the inner NiTi member.

Although Applicant disagrees with the Examiner's reading of Fariabi, claims 1 and 8 have been amended to further distinguish the present invention by reciting that the precipitation hardened material and superelastic material extend from the proximal section to the tapered distal section of the composite elongate core. Support for the amendments can be found in the specification at page 9, ll. 15-17, pg. 10, ll. 7-12, and FIG. 1.

As can best be seen in FIG. 1 of the specification, the elongate core member 11 has a distal segment 13 with a tapered distal section 16. Although the distal segment 13 includes a non-tapered portion of the core member, the tapered distal section 16 does not. It is respectfully submitted that amended claims 1 and 8 are patentable over both Fariabi and Fagan et al. since neither teaches nor suggests precipitation hardened material and superelastic material that extend to the tapered distal section of the composite elongate core.

It is respectfully submitted that, in view of the previous assertions with regard to Fariabi, the precipitation hardened material (i.e. sheath 12) disclosed therein does not extend to the tapered distal section of the core member 11 since the sheath is removed to expose the NiTi alloy member 13 and the NiTi alloy member is then ground to create the tapered distal section. It is further

respectfully submitted that Fagan et al. does not teach the use of more than one material and, therefore, does not teach precipitation hardened material and superelastic material that extend to the tapered distal section of the composite elongate core.

It is respectfully asserted that for the reasons given above, amended claims 1 and 8 are allowable over the cited references. It is further respectfully asserted that claims 2-7, which depend upon claim 1 and claims 9, 10, and 13-25, which depend upon claim 8, are also allowable over the cited references.

The Examiner rejected claims 11 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Fariabi in view of Fagan et al., in further view of Reiss et al. (PCT Publication No. WO 98/22024). Applicant respectfully traverses these rejections.

It is respectfully submitted that Reiss et al. adds nothing to the teachings of Fariabi and Fagan et al. with respect to precipitation hardened material and superelastic material that extend from the proximal section to the tapered distal section of the composite elongate core. Therefore, it is respectfully asserted that amended claim 8 is allowable over the cited references. It is further respectfully asserted that claims 11 and 12, which depend upon claim 8, are also allowable over the cited references.

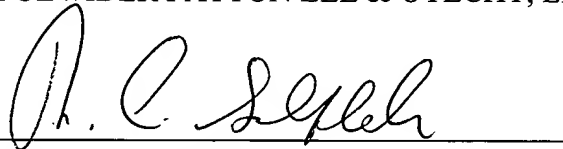
CONCLUSION

Applicant has attempted to respond to each and every rejection set forth in the outstanding Office action. In view of the above amendments and remarks, Applicant respectfully submits that all claims are now in condition for allowance. Reconsideration of the application, as amended, is respectfully requested and allowance at an early date is earnestly solicited.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned **"VERSION WITH MARKINGS TO SHOW CHANGES MADE."**

Respectfully submitted,

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Enclosure: Version with markings To Show Changes Made

[261974.2]

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

The following claims have been amended as indicated:

1. (Thrice Amended) A heat-treated elongate member formed at least in part of a composite elongate core, the composite elongate core having a proximal section and distal section, each section formed in part of a precipitation hardened material and in part of a superelastic material, wherein the precipitation hardened material and superelastic material extend from the proximal section to the tapered distal section.

8. (Thrice Amended) A heat-treated elongate member formed at least in part of a composite elongate core, the composite elongate core having a proximal section and distal section, each section formed in part of a precipitation hardened material and in part of a superelastic material, wherein the precipitation hardened material and superelastic material extend from the proximal section to the tapered distal section, the precipitation hardenable material comprising at least two materials selected from the group consisting of nickel, cobalt, molybdenum, chromium, tungsten, and iron.